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# Missouri mother says extreme case of bullying nearly killed her son

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Jessica Barker did not expect her son to be a victim. Alex was a student at Mid-Buchanan High School where he played football, wrestled and was a top student with a 4.6 GPA. (Submitted)

(KCTV) -- Extreme bullying and sexual assault may happen in schools more often than you think.

Jessica Barker did not expect her son to be a victim. Alex was a student at Mid-Buchanan High School where he played football, wrestled and was a top student with a 4.6 GPA.

Over the course of more than a year, Barker says the bullying, harassment and assault escalated.

"He was cheated out of his freshman and sophomore year," Jessica Barker said. "In our situation, the administration decided to look the board members decided to look the other way the teachers looked the other way."

Barker says the head football coach encouraged the behavior.

"The head football coach had disclosed a confidential conversation between my son and him. Alex was getting teased and ridiculed and harassed in the locker room," Barker said.

This was more than "boys will be boys" behavior, according to Barker and her attorney. Barker is now suing Mid-Buchanan School District.

The civil suit filed in federal court states, Alex was, "...the target of harassment and bullying by numerous students at Mid-Buchanan High School as well as certain staff members."

The suit details Alex being, "... singled out and physically assaulted during football practices," "verbal harassment," and even "sexual assault" when a student "entered the restroom and urinated on [Alex] through the crack of the stall."

Barker found the school's response even more alarming than the behavior itself.

"The principal wanted me just to 'calm down' and 'we'll figure this out' ... district wrestling started that night. It was a Friday and the principal was really concerned with Alex being able to focus on his matches that night," Barker said. "I told him exactly who it was that did it. [The principal] called Alex into his office talked to him and talked to me. He said there was no way he could protect Alex if he called the boy into his office that afternoon and with district wrestling starting he thought it would be best just to wait until Monday."

Later, Barker found out the student had been suspended for two days. Barker wanted to press charges, but that idea was met with resistance.

"It's mind-blowing. It's mind-blowing that this adult—he was 18 when he pissed on my son—it's sexual assault in the state of Missouri. The resource officer failed to do anything the principal failed to do anything," Barker said.

The bullying continued to escalate until Barker received a text from her son that read, "I'm done."

Barker went to pick up her son from school where Alex told her he wanted to take his own life. Barker took Alex to Children's Mercy for evaluation and it was determined Alex needed in-patient treatment.

"I knew I had no choice, because I was not going to lose my son. So I went to the school the next day and told them that Alex would not be back. I told them I just checked my son into a mental health facility because of their failure to protect him, their failure to keep him safe—even though they knew what was going on," Barker said.

Barker chose to transfer Alex to another school district.

"Then, I found out after I'd transferred Alex that there had been other students who'd transferred because they were being bullied because they were being harassed and there was nothing the school was doing to help it stop it," Barker said.

She went on to say she also found out one of the same students who she says harassed and assaulted Alex had done it before.

"There was one boy who'd went to the principal several times every time there was an incident that involved this instigator," Barker said, but she says the principal had told the boy "he didn't have enough" to do anything to the student in question.

"Unfortunately, we have a practice that is completely made out of this now. And we're not making any of this up it's happening all of the time," said Barker's attorney, Dan Zmijewski.

Zmijewski and legal firm partner Chris Dove represent dozens of families in similar situations.

"The cases we are working on are diagnosed depression, PTSD, anxiety all of these things are real and they're suffering from it, and on top of that sexual assaults," Zmijewski explained.

Often times, Dove says parents are in the dark about what's really happening at school.

"Those schools don't have any reporting obligations so you have no idea what's going on," Dove said.

Many times, school districts may have the law on their side, including a federal provision known as "FERPA"—the Family Education Rights and Privacy Act, intended to protect students' privacy in certain situations.

"The point was, let's protect children so that schools aren't going out there and sending out information about minor children and info about their learning disabilities or medical information. They've turned that into, 'Hey, that must mean I can't give anybody any information until you get a court order or subpoena and go through 14 court steps before I have to give it to you. It's just turned it around," Zmijewski said. "All parents run into this. they'll get a phone call. 'Johnny got hurt at the playground.' Then they'll call and say, 'Well who'd he get in trouble with?' [The school will say,] 'Well I can't tell you who he got in trouble with because there are laws out there that say I can't disclose the identity of other students.'"

That stonewalling happens in more serious cases as well, including sexual assault. That lack of information can leave parents in the dark about what happens to the perpetrators, or what doesn't happen to them, leaving them in the classroom to offend again.

"We have so many cases where that very thing happens where ... they catch the perp or they're told about the perp, and then the next week [students are] they're next to [the perpetrator] in the hall or in class and it happens again," Dove said.

The issue is relevant in both Missouri and Kansas.

Earlier this year, the family of an eighth-grade student filed a lawsuit against the Shawnee Mission School District after the female student says she was sexually assaulted by a male eighth-grade classmate at school.

The lawsuit states, "Other female students complained to the school district about unwelcome physical contact by the perpetrator."

The suit goes on to say, the school "...was aware the perpetrator had been involved in other incidents with additional female students..." "and yet, allowed the perpetrator to remain in school and continue to injure female students."

An attorney for the school district tells KCTV5 News that the district denies any wrongdoing and has filed a motion in court to dismiss the case.

Holding the school districts accountable for reporting, disciplining and protecting students may be easier said than done.

Many states, including Missouri and Kansas, give school districts immunity, protecting them from lawsuits on the state level. In order to sue a school district, Zmijewski and Dove say most times you have to do so in federal court, and that's if you can find the district has violated a federal civil rights statute.

"Public schools are part of the government so they have an immunity for being sued for things you could sue a private actor for," Dove said.

If the court rules against the district, there are also caps on damages.

"There's got to be a financial consequence for letting this go on," Dove told KCTV5.

Mid-Buchanan School District shared the following statement from Superintendent Cody Hirschi, in response to our request for an interview or comment: *The district is aware of the lawsuit filed by Ms. Barker. The District refutes the allegations in the lawsuit. The District investigated the matter and followed board policies. The District strives to create a safe environment for all students and places the utmost importance on the safety of its students, staff, and patrons. In order to protect the privacy of the individuals involved, and due to the confidentiality of student information under federal law and Board Policy, the District is unable to comment further at this time.*

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